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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,204	01/20/2006	Detlef Cieslik	2002P01357WOUS	5186

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BSH HOME APPLIANCES CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
100 BOSCH BOULEVARD  
NEW BERN, NC 28562

EXAMINER
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CIRIC, LJILJANA V

ART UNIT	PAPER NUMBER
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3744

NOTIFICATION DATE	DELIVERY MODE
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10/05/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,204	<b>Applicant(s)</b> CIESLIK ET AL.	
	<b>Examiner</b> Ljiljana (Lil) V. Ciric	<b>Art Unit</b> 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 7/15/2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-23 and 25-38 is/are pending in the application.
- 4a) Of the above claim(s) 22, 25 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-21, 23, 27-31 and 33-38 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is in response to the reply filed on July 15, 2010.
2. Claims 16 through 23 and 25 through 38 remain in the application. Of these, claims 20, 23, 31, 32, 33, 34, and 35 have been amended via the reply filed on July 15, 2010, whereas claims 36 through 38 are new. Claims 22, 25, and 32 remain withdrawn from consideration as noted in greater detail below.

### ***Response to Arguments***

3. Applicant's arguments filed on July 15, 2010 have been fully considered but they are generally not persuasive. For example, applicant argues that Nam et al. fails to disclose a sleeve for receiving a temperature sensor as recited in claims 16 and 30 of the instant application. However, as noted in greater detail below and as clearly shown at least in Figures 3 and 4, Nam et al. clearly does disclose a sleeve for receiving a temperature sensor 26. Similarly, applicant argues that Nam et al. fails to disclose a film of deformable material as recited in claims 28, 29, and 35 of the instant application. However, again, at least as broadly interpreted as required in a pending application, Nam et al. does disclose a deformable thin layer of a plastic foam insulation which is readable on the film of deformable material as also noted in greater detail below. In general, applicant is thus respectfully reminded that pending claims are to be given their broadest reasonable interpretation as required.

### ***Election/Restrictions***

4. Applicant's election of the first species or the embodiment of Figures 1 through 3 in the reply filed on January 12, 2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

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5. Claims 22, 25, and 32 are and remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to the nonelected second and third species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 12, 2009.

### ***Drawings***

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the marking borne by the tubular pipe at the point of application of the brace as recited in claim 26 must be shown or the feature canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

7. Receipt and entry of the amended abstract filed on July 15, 2010 is hereby acknowledged.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 20 as amended, the product-by-process limitations “said sleeve being produced by rolling *an end of said flat material to form a generally cylindrical sleeve*” appear to recite a generally cylindrical sleeve being made by rolling an end of the flat material; however, the shape of the sleeve is not positively recited as being cylindrical by the preceding structural limitations in the claims. This renders indefinite the metes and bounds of protection sought by the claim. If claim 20 is intended to limit the shape of the sleeve to a cylindrically-shaped sleeve, then recommend replacing the above limitations to “said sleeve being a generally cylindrical sleeve and being produced by rolling an end of the flat material” or to “said sleeve having a generally cylindrical shape and being produced by rolling an end of the flat material”. If claim 20 is not intended to limit the shape of the sleeve to a cylindrical shape, then recommend replacing the above limitations to “said sleeve being produced by rolling an end of said flat material to form the sleeve” or similar, as appropriate.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 16 through 19, 21, 27 through 31, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Nam et al (previously made of record via IDS).

Nam et al. discloses a heat exchanger for a refrigeration device including a sleeve essentially as claimed, including, for example: a base plate 14; a tubular pipe 20 or 20'; a metallic sleeve 32 or 42 or 52 or 62 (see any one of Figures 2A, 2B, 2C or 3) arranged on the base plate 14 for receiving a temperature

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sensor 26; a metallic brace or fixing bracket 30 or 40 or 50 or 60 connected to the sleeve 32 or 42 or 52 or 62 and engaging on the tubular coolant pipe 20 or 20' via clamping section 34 or 34b or 44a or 44b or 64a or 64b; the tubular pipe 20 or 20' being connected to the base plate 14 via an adhesive layer (see column 6, lines 15-20); and, the tubular pipe 20 or 20' and the sleeve 32 or 42 or 52 or 62 being enclosed between the base plate 14 and a thin layer (i.e., broadly readable on the "film" as recited in the claims) of a deformable material (i.e., a reactive plastic foam insulating material; see column 6, lines 15-20).

The reference thus reads on the claims.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 23, 33, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nam et al. (previously made of record via IDS).

As discussed in greater detail above, Nam et al. discloses a heat exchanger for a refrigeration device essentially as claimed, including at least two braces or clamping sections 34 and 34b or 44a and 44b or 64a and 64b connected to the sleeve 32 or 42 or 52 or 62. Nam, however, does not disclose the at least two braces or clamping sections 34 and 34b or 44a and 44b or 64a and 64b as extending out from the same side of the sleeve 32 or 42 or 52 or 62 in the same direction. Nevertheless, absent a showing of criticality or unexpected results, it would have been obvious to one skilled in the art at the time of invention to modify the heat exchanger of Nam et al. by mere rearranging of parts so as to have the at least two braces or clamping sections extending out from the same side and extending in the same direction in order to, for example, reduce the amount of space being taken up thereby while still

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maintaining sufficient fixing force to clamp the temperature sensor sleeve securely onto the tubular cooling pipe.

*Allowable Subject Matter*

14. Claim 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

16. The additional prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner works a

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flexible work schedule but can normally be reached on most days during the work week between the hours of 10:30 a.m. and 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ljiljana (Lil) V. Ciric/

Primary Examiner, Art Unit 3744